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## FISCAL IMPACT REPORT

SPONSOR: Aragon DATE TYPED: 3/3/03 HB \_\_\_\_\_  
 SHORT TITLE: Construction Industries Penalty Fee SB 141/aSFL#1  
 ANALYST: Maloy

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	See Narrative		Recurring	General Fund
			Recurring	Local

### SOURCES OF INFORMATION

Response Not Received From  
 Construction Industries Division

### SUMMARY

#### Synopsis of Senate Floor Amendment

Senate Bill 141 was amended on the Senate Floor to include a new provision allowing the Construction Industries Division, by adoption of a rule, to require a consumer protection underwritten by a corporate surety. The Construction Industries Commission, in a disciplinary action against a licensed contractor, would be allowed to attach and disburse the bond.

#### Synopsis of Original Bill

Senate Bill 141 clarifies and tightens pro-consumer disclosure requirements and increases the penalty fees that may be assessed against a contractor failing to meet those requirements. Specifically, SB 141 requires:

- A contractor's license number must be clearly indicated on all written bids and when applying for a building permit. Failure to make this disclosure would result in a penalty fee of \$150. This fee is to be paid to the code jurisdiction or political subdivision responsible for permitting the project.
- Before work begins, a contract is signed or funds are paid for residential contracting, a contractor shall disclose, in writing to the owner, that the license issued and the bond or other proof of responsibility required under the Construction Industries Licensing Act does not protect the owner if the contractor defaults. Failure to make this disclosure

would result in a penalty fee being assessed by the Construction Industries Division (CID) in an amount not less than \$500 and not more than \$1,500, as determined appropriate by CID. This fee is to be paid to CID.

### Significant Issues

Many contractors advertise that they are “licensed and bonded”. While it is true that a contractor must present proof of financial responsibility at a level sufficient to cover the value of his projects before being issued a contractor’s license through CID, advertising the existence of bonding or insurance is misleading to consumers.

Consumers expect that the coverage is for their project and that the funds will be available to them in the event the contractor defaults on the project. Unfortunately, the consumer is mistaken. The bonding or proof of financial responsibility required by CID is a “licensing bond”. The funds may be accessed by CID for unpaid license renewal fees, permit fees and administrative fines. The bond or policy is not intended to address contractor liabilities to consumers.

### **FISCAL IMPLICATIONS**

- There may be a slight increase in revenue to the general fund as a result of additional penalty fees being assessed by the CID. This would be a recurring increase.
- Penalties assessed by local building departments within political subdivisions would remain with the political subdivision.

### **ADMINISTRATIVE IMPLICATIONS**

- CID, as well as all of the local building departments throughout the state, would be required to develop a disclosure form that is to be completed by contractors and provided to owners in advance of contracting for work or receiving compensation. This would not be time intensive for CID, or for the local subdivisions, and could be accomplished with existing staff.
- As with all new administrative requirements for professional licensees, there will be some time and resources directed to informing / training the industry. This can be accomplished with existing staff.
- Finally, these additional requirements could potentially result in a slight increase in the number of administrative hearings for CID and local subdivisions. If this occurs, these hearings should be “cut and dry”. Either the contractor’s license number is on his written bid or his permit application or it is not; either the form disclosing the meaning of contractor’s license, bond and insurance is completed and provided to the homeowner, or it is not.